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Attorneys for Defendant  
HIGH DESERT AGGREGATE & PAVING, INC.

**UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF OREGON**  
**EUGENE DIVISION**

STACEY BOWMAN,  
  
Plaintiff,

v.

HIGH DESERT AGGREGATE & PAVING,  
INC., an Oregon Corporation,  
  
Defendant.

Case No.: 6:19-cv-1291

**DEFENDANT'S NOTICE OF  
REMOVAL**

Pursuant to 28 U.S.C. §§ 1331, 1441 and  
1446

(Deschutes County Circuit Court Case  
No. 19CV29137)

TO: The Judges and Clerk of the United States District Court for the District of Oregon

PLEASE TAKE NOTICE that Defendant High Desert Aggregate & Paving, Inc.  
("Defendant"), removes this action to this Court from the Circuit Court of the State of Oregon  
for the County of Deschutes, pursuant to 28 U.S.C Section 1446.

1. On or about July 2, 2019, Plaintiff Stacey Bowman commenced this civil action  
against Defendant in the Circuit Court of the State of Oregon for the County of Deschutes by  
filing a Complaint entitled, *Stacey Bowman v. High Desert Aggregate & Paving, Inc.*, Case No.  
19CV29137. See concurrently filed Declaration of Sean M. Driscoll in Support of Defendant's

Notice of Removal, Exhibit 1 (Summons and Complaint) and Exhibit 2 (Deschutes County Circuit Court docket for Case No. 19CV29137).

### **Defendant's Removal is Timely**

2. On July 19, 2019, Plaintiff's Summons and Complaint were served on Defendant. Driscoll Decl. ¶ 4. Plaintiff's Summons and Complaint constitute all of the process, pleadings and orders served on any party in the state court action. Accordingly the deadline for Defendant to respond to and/or remove the action has not expired. Defendant has not entered or appeared or voluntarily invoked or submitted to the jurisdiction of the Circuit Court of the State of Oregon for the County of Deschutes in any manner.

### **Federal Question Jurisdiction**

3. The above-described action is a civil action which may be removed from the state court under 28 U.S.C. § 1441(c) because Plaintiff's complaint includes one or more claims arising under the Constitution, laws or treaties of the United States. *See* Driscoll Decl., Ex. 1, Complaint ¶¶ 21–25 (asserting claim under the Fair Labor Standards Act, 29 U.S.C. §207, et seq.)

4. Under 28 U.S.C §1331, the district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.

### **Other Procedural Requirements**

5. Removal to this Court is proper pursuant to 28 U.S.C. §1446(a) because the United States District Court for the District of Oregon, Eugene Division, is the federal district and division within which the state court action is currently pending.

6. Pursuant to 28 U.S.C. § 1446(d), promptly after filing this Notice of Removal, Defendant will give written notice thereof to Plaintiff, and file a notice of removal with the Clerk

of the Circuit Court, Deschutes County, Oregon, informing the court that this matter has been removed to federal court. A copy of this Notice of Removal will also be served upon Plaintiff.

Dated: August 15, 2019.

LEWIS BRISBOIS BISGAARD & SMITH LLP

*s/ Sean M. Driscoll*

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*Attorneys for Defendant*

**CERTIFICATE OF SERVICE**

I certify that on August 15, 2019, I served the foregoing **DEFENDANT'S NOTICE OF REMOVAL** on:

**Attorneys for Plaintiff:**

Kirsten Rush  
Busse & Hunt  
621 S.W. Morrison St.  
Suite 521  
Portland, Oregon 97205  
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<input checked="" type="checkbox"/>	Via E-Mail

LEWIS BRISBOIS BISGAARD & SMITH LLP

By: s/ Sean Driscoll  
Sean M. Driscoll, OSB #022987  
*Attorneys for Defendant*